

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

**MOTION FOR APPOINTMENT OF SPECIAL  
ADMINISTRATOR AND TO SUBSTITUTE SPECIAL  
ADMINISTRATOR FOR PLAINTIFF MICHAEL TATE**

Petitioner Edna Tate, by counsel, moves the Court for entry of an order appointing her as special administrator for the estate of Michael Tate, her deceased son, for the purpose of effectuating the settlement of this action.

As grounds for this motion, petitioner states as follows:

1. Plaintiff Michael Tate agreed to settle this lawsuit in March of 2008 for a total amount of five thousand dollars. Mr. Tate died intestate before he could sign the settlement papers.
2. Edna Tate, the mother of Michael Tate, paid the funeral expenses, which total about five thousand dollars.
3. No petition for letters of office for the estate of Michael Tate has been filed.
4. The sole asset of the estate is this cause of action.

5. Appointment of a special representative by a federal court was approved by the Seventh Circuit in *Anderson v. Romero*, 42 F.3d 1121 (7th Cir. 1994), where, in the absence of an executor for the estate of the deceased plaintiff, the Court of appeals appointed plaintiff's counsel "as special administrators in substitution of the deceased." Id. at 1125. The Court of Appeals applied the same rule in *Ward v. Edgeton*, 59 F.3d 652 (7th Cir. 1995), where it directed the clerk to notify the next of kin of the deceased plaintiff that they could "apply to this court for appointment as [plaintiff's] special representative if they desire to prosecute the appeal." Id. at 653. These decisions were recently followed by another judge of this district in *Foster v. Elyea*, 06 CV 1974, where the court appointed the father of the deceased civil rights plaintiff as the special administrator. (Order, February 16, 2007, attached.)

Respectfully submitted,

/s/ Kenneth N. Flaxman

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## **Exhibit 1**

## United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Elaine E. Bucklo	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	06 C 1974	DATE	2/16/2007
CASE TITLE	Foster vs. Elyea, et al.		

## DOCKET ENTRY TEXT

Petitioner Tagobis Foster's motion to appoint him as special administrator for plaintiff James Foster is granted and it is so ordered. Status hearing held and continued to 4/6/07 at 9:45 a.m. Plaintiff has until 3/16/07 to file an amended complaint. Various motions to dismiss (18,32,34,41) are denied without prejudice.

Docketing to mail notices.

00:05

Courtroom Deputy  
Initials:

MPJ